

**DECISION
GRAFTON PLANNING BOARD**

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GRAFTON, MA.

SPECIAL PERMIT (SP 2012-4) & SITE PLAN APPROVAL
Construct an access road through property in South Grafton to a proposed 3 ± megawatt
Solar Electric Generating Facility (solar farm) on Owner's back land in Northbridge.

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92 & 100 Milford Road, South Grafton

**Northbridge Solar, LLC (Applicant)
Hilltop Properties, LLC (Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of the Northbridge Solar, LLC, 100 Summit Lake Drive, Suite 410, Valhalla NY 10595 (hereinafter the APPLICANT), for a Special Permit and Site Plan Approval under Section 3.2.3.1 to construct an access road through property in South Grafton to a proposed 3 ± megawatt Solar Electric Generating Facility (solar farm) on Owner's back land in Northbridge. Said access road to be installed on property located at 100 Milford Road, South Grafton, and shown on Grafton Assessor's Map 133, Lot 1B and Map 132, Lot 100 and owned by the Hilltop Properties, LLC, 120 Milford Road, South Grafton (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds in Book 43962, Page 36.

I. BACKGROUND

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on April 23, 2012. The public hearing on the Application was held on May 21, 2012 and continued to June 11, 2012. Notice of the public hearing and the subject matter thereof was published in the Grafton News on May 2 and May 9, 2012 and posted with the Town Clerk's Office. Abutters were notified by First Class Mail.

The following Board members were present throughout the public hearing: Chairman Stephen Qualey, Vice Chairman David Robbins, Clerk James Walsh III, Robert Hassinger, Michael Scully, and Associate Member Sargon Hanna. At the hearing Attorney Joseph Antonellis, Engineer Stephen O'Connell of Andrews Survey & Engineering and David Fenton of DG Clean Power / Northbridge Solar LLC presented the application to the Board on behalf of the Applicant / Owner. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

- EXHIBIT 1.** Unbound application package submitted by the Attorney Joseph Antonellis, received April 23, 2012, and consisting of the following:
- Application for Special Permit, 1 page.
 - Narrative to Special Permit Application of Northbridge Solar, LLC, no date, 1 page.
 - Quitclaim Deed, Hilltop Properties, LLC, March 19, 2009, 4 pages.
 - Certificate of Good Standing, signed by the Treasurer / Collector's Office, dated April 12, 2012, 2 pages.

- Certified abutter's list, Town of Grafton, dated April 3, 2012, 7 pages.
- Plan sets, one 11" x 17" size; one 24" x 36" size, Solar Electric Generating Facility off 216 Milford Road, Northbridge & Grafton Massachusetts; prepared by Andrews Survey & Engineering, Inc., dated March 15, 2012, including the following sheets:
 - C-00: Cover Sheet
 - C-01: Sheet Index Plan
 - C-2.1: Existing Conditions Plan
 - C-2.2: Existing Conditions Plan
 - C-2.3: Existing Conditions Plan
 - C-2.4: Existing Conditions Plan
 - C-3.1: Site Plan
 - C-3.2: Site Plan
 - C-3.3: Site Plan
 - C-3.4: Site Plan
 - C-4.1: Construction Details
 - C-4.2: Construction Details
 - C-4.3: Construction Details
 - C-5.1: Alternative Access Site Plan

- EXHIBIT 2.** Certified List of Abutters Special Permit, Northbridge, MA Planning Board, April 3, 2012, 2 pages.
- EXHIBIT 3.** Project review memorandum, Sewer Department, received April 30, 2012, 1 page.
- EXHIBIT 4.** Project review memorandum, South Grafton Water District, received May 4, 2012, 1 page.
- EXHIBIT 5.** Email correspondence from Al Sanborn, messages for the members of the Planning Board re: Solar Energy Project, received May 8, 2012, 12 pages.
- EXHIBIT 6.** Memorandum from the Town Administrator, Northbridge Solar, LLC – 92 & 100 Milford Road & rear land in Northbridge, dated and received May 10, 2012, 1 page.
- EXHIBIT 7.** Project review memorandum, Police Department, received May 15, 2012, 1 page.
- EXHIBIT 8.** Project review memorandum, Board of Health, received May 16, 2012, 1 page.
- EXHIBIT 9.** Product specification sheet, STP275-24/Vd, STP280-24/Vd, 280 Watt Polycrystalline Solar Module, Suntech Power, EN-NA-AZ-Vd-NO.01 – Rev 2011, 2 pages, submitted by the Applicant during the May 21, 2012 Planning Board meeting
- EXHIBIT 10.** Public Hearing Sign In Sheet, May 21. 2012, 1 page.
- EXHIBIT 11.** Written Request for Public Hearing Continuance, signed by Attorney Joseph Antonellis, dated and received at the May 21, 2012 public hearing, 1 page.
- EXHIBIT 12.** Project review memorandum, Assessor's Office, received May 24, 2012, 1 page.
- EXHIBIT 13.** Project review memorandum, Conservation Commission, received June 4, 2012, 1 page.
- EXHIBIT 14.** Submitted at the public hearing on June 11, 2011 by the Applicant; Plan set, 11" x 17", Solar Electric Generating Facility Off 116 Milford Road, Northbridge & Grafton, Mass., prepared by Andrews Survey & Engineering, Inc., two sheets:

- C-5.1 – Alternative Access Site Plan, Sheet 1 of 1, dated June 8, 2012
- C-6.1 – Cross-Section Views, Sheet 1 of 1, no date.

EXHIBIT 15. Submitted at the public hearing on June 11, 2011 by the Applicant; Report; Equipment Specifications for Solar Electric Generating Facility Off 116 Milford Road, Northbridge & Grafton, Massachusetts., prepared by Andrews Survey & Engineering, Inc., dated June 2012, 18 pages.

EXHIBIT 16. Public Hearing Sign In Sheet, June 11. 2012, 1 page.

EXHIBIT 17. Correspondence, Grafton Fire Department, SP 2012-4 Northbridge Solar, LLC 92 & 100 Milford Road & Rear land in Northbridge, dated June 13, 2012, received June 25, 2012, 1 page.

EXHIBIT 18. Revised plan set, 24" x 36", Solar Electric Generating Facility Off 116 Milford Road, Northbridge & Grafton, Mass., prepared by Andrews Survey & Engineering, Inc., received July 3, 2012, two sheets:

- C-5.1 – Alternative Access Site Plan, Sheet 1 of 1, dated June 8, 2012
- C-6.1 – Cross-Section Views, Sheet 1 of 1, dated June 8, 2012.

EXHIBIT 19. Email correspondence from Attorney Joseph Antonellis, Decommission Bond, includes sample Site Restoration Bond, dated July 5, 2012, received July 9, 2012, 2 pages.

III. FINDINGS

At their meeting of July 23, 2012 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Walsh, seconded by Mr. Robbins) voted 5-0 in favor to make the following Findings:

- F1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and materials submitted and presented in association with the Application.
- F2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work and site improvements shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
- F3. That the subject site (as identified by the Applicant and shown in EXHIBIT #1 of this Decision) is located within the Office and Light Industry (OLI) zoning district.
- F4. That this Application is for a Special Permit and Site Plan Approval under Section 3.2.3.1 – Public Utility Uses. Applicant is seeking to build the access road across property in South Grafton to a site in Northbridge where the entirety of the solar generating facility will be constructed. Both parcels in South Grafton and Northbridge are owned by Hilltop Properties LLC which is located in South Grafton.
- F5. That during the public hearing the Board and Applicant discussed the previously issued Special Permit for this site. It was noted that the property is already benefitted by a Special Permit and Site

Plan Approval issued in 2009 (SP 2009-11). This permit was granted to the OWNER for the purposes of developing a commercial plaza consisting of two structures, internal roadway, parking lots and storm water management facilities. Presently the OWNER has not exercised the provisions of the permit and no development has been undertaken. The Applicant stated that they are seeking to construct the roadway approved in the earlier permit and extend it to the property line which would provide access to the OWNER'S land in Northbridge where the solar generating facility would be built. The Applicant is proposing the same alignment as the approved in commercial development Special Permit.

- F6. That during the public hearing the Board and Applicant discussed the proposed construction of the access roadway. The Applicant stated that they intend to construct the roadway based on the approved alignment (see FINDING #F5) but that it would be compacted gravel suitable as a base for future paving.
- F7. That during the public hearing the Board and Applicant discussed visual impacts. Based on the topography of the site it was determined that the solar panels would be visible and that a screening plan would be required. The Applicant stated the OWNER who lives adjacent to the site also requested a screening plan. The Applicant prepared and presented a landscape plan along with sight line profiles to show that the solar panels would be sufficiently screened from view along Milford Road (see EXHIBIT #18). The Board found this revised plan to be satisfactory.
- F8. That during the public hearing the Board and Applicant discussed the need for some form of surety that could be accessed by either the Town of Grafton or the Town of Northbridge in the event that the facility is abandoned and either town need to take action to dismantle the facility. It was noted that while the entirety of the facility was located in Northbridge, access is solely from Grafton and that there would be impacts that would necessitate the need for surety to be in place in advance of construction. The Applicant developed a sample "Site Restoration Bond" which is specific to the decommissioning of the solar electric generating facility (see EXHIBIT #19). The Applicant stated that the bond developed for Grafton would follow the same format and agreed to produce the surety in advance of construction.
- F9. That during the public hearing the Board and Applicant discussed the need for proper security and access for emergency service providers. This includes fencing and a gate with a lock that meets the requirements of the police and fire departments. In addition the roadway must be maintained to provide not only access but also maneuverability for fire trucks and other emergency responders. The Applicant agreed that they would coordinate with the both the Grafton Fire and Police departments to ensure that these issues were addressed. The Applicant submitted equipment specifications that addressed the Board's concerns (see EXHIBIT #15).
- F10. That during the public hearing the Board and Applicant discussed correspondence received from the Board of Selectmen (see EXHIBIT #6). Concerns included Town expenses related to emergency services and the lack of tax revenue to cover the costs.
- F11. That the Conservation Commission submitted project review comments (see EXHIBIT #13) stating that there is a valid Order of Conditions for the property at 100 Milford Road and no Order for 92 Milford Road.
- F12. That during the public hearing the Board received testimony from Mr. Al Sanborn of 38 Cherry Lane, an abutter to the project. He raised concerns about dust, visual impacts the alignment of the proposed access road to Violet Lane which is directly across the street and serves as a school bus

stop. The Applicant stated that the access road is in the same location that was approved by the Board in Special Permit SP 2009-11 and that the alignment issue was addressed during the previous hearing process. The Applicant stated that they are not changing the alignment or location of the access road. Regarding dust control, the Applicant stated that the access road would be paved with a particular type of gravel which would reduce the amount of dust generated by vehicles. The gravel will be similar to the type used for a base course of a roadway (see FINDING #F6). The Applicant stated that they would be providing a landscape plan to reduce the visual impact of the solar panels (see FINDING #F7 and EXHIBIT #18).

- F13. That during the public hearing the Board and the Applicant discussed the frequency of the access to the site and amount of traffic generated by maintenance vehicles. The Applicant stated that there would be more traffic during the construction period. Once the constructed it is anticipated that there will be one truck per month visiting the site for regular maintenance. Additional site visits will be on an as needed basis.
- F14. That during the public hearing the Board and the Applicant discussed signage for the site as it relates to safety and security. The Applicant stated that there would be signs posted along the security fencing surrounding the solar panel field and signage on the security gate. No signs are proposed for the entrance to the access road.

At their meeting of July 23, 2012 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Walsh, seconded by Mr. Robbins) voted 5-0 in favor to make the following Findings:

- F15. With regard to Section 1.5.5(a) of the ZBL, that based upon the Findings stated within this Decision, ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate. In voting this Finding, the Board notes that this Special Permit is only for the sign identified in this Decision.
- F16. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory.
- F17. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas are satisfactory.
- F18. With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate.
- F19. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district.
- F20. With regard to Section 1.5.5(f) of the ZBL, that based upon the Findings stated within this Decision, the required yards and other open space requirements are adequate.

- F21. With regard to Section 1.5.5(g) of the ZBL, that the proposed sign and its use (as presented in the EXHIBITS stated within this Decision and by the Applicant during the public hearing) is generally compatible with adjacent properties and properties in the district.
- F22. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply.
- F23. With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant or cumulative impact upon municipal water supplies. The site is not located with the Water Supply Protection Overlay District.
- F24. With regard to Section 1.5.5(j) of the ZBL, that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development is satisfactory.

At their meeting of July 23, 2012 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Walsh, seconded by Mr. Robbins) voted 5-0 in favor to make the following Findings:

- F25. That for the reasons stated within the Findings of this Decision, the Special Permit and the Site Plan Approval applications, if granted, are in harmony with the general purpose and intent of the ZBL.
- F26. That for the reasons stated within the Findings of this Decision, the Special Permit and the Site Plan Approval applications, if granted, would not create a nuisance, hazard or congestion.
- F27. That for the reasons stated within the Findings of this Decision, the Special Permit and the Site Plan Approval applications, if granted, would not cause a substantial harm to the neighborhood.
- F28. That for the reasons stated within the Findings of this Decision, the Special Permit and Site Plan Approval applications, if granted, would not derogate from the general purpose and intent of the By-law or the stated district objectives or applicable use criteria.

At their meeting of July 23, 2012 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Walsh, seconded by Mr. Robbins) voted 5-0 in favor to make the following Findings:

- F29. That Section 1.3.3.2 of the ZBL requires that the procedure for the Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F30. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board.
- F31. The Board finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Board finds that the Applicant did not request any waivers.

IV. DECISION and CONDITIONS

At their meeting of July 23, 2012 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Hassinger, seconded by Mr. Walsh) voted 5-0 in favor to **GRANT** this Special Permit and Site Plan Approval with the following conditions:

- C1. This Special Permit and Site Plan Approval specifically authorizes the installation of an access road, security features and landscaping as described within the EXHIBITS and FINDINGS of this Decision (EXHIBITS #1 and #18).
- C2. The work authorized by this Special Permit and Site Plan Approval shall be solely for the purposes noted within Condition #1 of this Decision. Changes to plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the plan presented within the EXHIBITS of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.
- C3. Prior to the start of any construction activity on the Site, the Applicant shall submit to the Town (through the Planning Board) a bond or other type of security acceptable to the Board, in an amount and form to be determined by the Board and its agent, for the purposes of decommissioning the solar electric generating facility if necessary (see FINDING #F8).
- C4. The access road, gate and security facilities shall be maintained at all times to the satisfaction of the Grafton Fire and Grafton Police departments to ensure that emergency service providers will have adequate access and maneuverability at all times (see FINDING #F9).
- C5. Hours of construction and earthwork proposed shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or state and federal holidays.
- C6. The Planning Board reserves the right to require additional screening measures on the Site (e.g., vegetation, fencing, etc.) along the property boundaries for up to one (1) year after the issuance this Special Permit and Site Plan Approval if, in the opinion of the Board, such measures are necessary to ensure adequate screening and/or buffering of the proposed use from abutting residential property. The Applicant shall be notified in writing of any such determination by the Planning Board. All landscaping as shown on the plan (EXHIBITS #18) will be maintained.
- C7. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be construed as approving or authorizing any such signage. (see FINDING #F14).
- C8. All grading and construction shall be performed in accordance with the approved Plans, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways or resource areas during construction, and after completion, from the site and its associated improvements.

- C9. The access road will be maintained at all times for the purposes of dust control and to ensure proper emergency service access including but not limited to snow removal.
- C10. Any Order of Conditions and/or permits issued by the Grafton Conservation Commission with respect to this application are hereby incorporated by reference and constitute a condition to this Special Permit decision.
- C11. Prior to commencing any work within Milford Road, all required permits/approvals shall be obtained from the Massachusetts Highway Department and Grafton Department of Public Works. Such work shall be performed in accordance with all requirements of the MHD and the Grafton DPW, and copies of all permits/approvals shall be filed with the Planning Board.
- C12. In accordance with Section 1.5.8 of the ZBL, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the ZBL.
- C13. This Special Permit and Site Plan Approval shall not take effect until the Applicant has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number. Installation of the sign authorized by this Special Permit and Site Plan Approval shall not commence until the Applicant has recorded this Special Permit and Site Plan Approval Decision at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
- C14. By recording this Special Permit and Site Plan Approval Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.
- cc: Applicant / Owner
- Building Inspector
 - Assessor

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Maureen Clark, Town Clerk

Date